

UNITED STATES OF AMERICA
POSTAL REGULATORY COMMISSION
WASHINGTON, DC 20268-0001

Before Commissioners:

Ruth Y. Goldway, Chairman;
Nanci E. Langley, Vice Chairman;
Mark Acton; and
Robert G. Taub

New Cambria Post Office
New Cambria, Kansas

Docket No. A2012-59

ORDER AFFIRMING DETERMINATION

(Issued February 21, 2012)

I. INTRODUCTION

On December 15, 2011, the Postal Service advised the Commission that it “will delay the closing or consolidation of any Post Office until May 15, 2012.”¹ The Postal Service further indicated that it “will proceed with the discontinuance process for any Post Office in which a Final Determination was already posted as of December 12, 2011, including all pending appeals.” *Id.* It stated that the only “Post Offices” subject to closing prior to May 16, 2012 are those that were not in operation on, and for which a Final Determination was posted as of, December 12, 2011. *Id.* It affirmed that it “will not close or consolidate any other Post Office prior to May 16, 2012.” *Id.* at 2. Lastly,

¹ United States Postal Service Notice of Status of the Moratorium on Post Office Discontinuance Actions, December 15, 2011, at 1 (Notice).

the Postal Service requested the Commission “to continue adjudicating appeals as provided in the 120-day decisional schedule for each proceeding.” *Id.*

The Postal Service’s Notice outlines the parameters of its newly announced discontinuance policy. Pursuant to the Postal Service’s request, the Commission will fulfill its appellate responsibilities under 39 U.S.C. § 404(d)(5).

On November 7, 2011, Doris C. McCall (Petitioner McCall) filed a petition with the Commission seeking review of the Postal Service’s Final Determination to close the New Cambria, Kansas post office (New Cambria post office).² The Commission also received a letter from Raymond K. Brown (Petitioner Brown).³ The Final Determination to close the New Cambria post office is affirmed.⁴

II. PROCEDURAL HISTORY

On November 28, 2011, the Commission established Docket No. A2012-59 to consider the appeal, designated a Public Representative, and directed the Postal Service to file its Administrative Record and any responsive pleadings.⁵

On November 22, 2011, the Postal Service filed the Administrative Record with the Commission.⁶

² Petition for Review received from Doris C. McCall regarding the New Cambria, Kansas post office 67470, November 7, 2011 (Petition).

³ Notice of Intervention received from Raymond K. Brown, December 20, 2011 (Intervention).

⁴ The Commission is divided equally, 2-2, on the outcome of this appeal. In the absence of a majority, the Final Determination stands.

⁵ Order No. 1000, Notice and Order Accepting Appeal and Establishing Procedural Schedule, November 28, 2011.

⁶ The administrative record is attached to the United States Postal Service Notice of Filing Corrected Administrative Record, November 30, 2011 (Corrected Administrative Record). The Corrected Administrative Record was filed because the original administrative record filed on November 22, 2011 was missing several record items. The Corrected Administrative Record includes, as Item No. 47, the Final Determination to Close the New Cambria, Kansas Post Office and Establish Service by Rural Route Service and, as Item No. 47A, an addendum (Addendum to Final Determination). Together, Item Nos. 47 and 47A constitute the Final Determination. All citations refer to the Corrected Administrative Record.

The Postal Service also filed comments requesting that the Commission affirm its Final Determination.⁷

On January 19, 2012, the Public Representative filed comments.⁸

III. BACKGROUND

The New Cambria post office provides retail postal services and service to 33 post office box customers. Final Determination at 2. No delivery customers are served through this post office. The New Cambria post office, an EAS-53 level facility, provides retail service from 8:15 a.m. to 12:00 p.m., Monday through Friday, and 8:15 a.m. to 9:15 a.m. on Saturday. Lobby access hours are 24 hours. *Id.*

The postmaster position became vacant on June 1, 2009 when the New Cambria postmaster retired. A non-career officer-in-charge (OIC) was installed to operate the post office. *Id.* at 6. Retail transactions average four transactions daily (three minutes of retail workload). *Id.* at 2. Post office receipts for the last 3 years were \$17,210 in FY 2008; \$13,866 in FY 2009; and \$9,935 in FY 2010. There are no permit or postage meter customers. *Id.* By closing this post office, the Postal Service anticipates savings of \$19,496 annually. *Id.* at 7.

After the closure, retail services will be provided by the Salina post office located approximately 7 miles away.⁹ *Id.* at 2. Delivery service will be provided to cluster box units (CBUs), by rural route service through the Salina post office. The Salina post office is an EAS-22 level post office, with retail hours of 7:30 a.m. to 5:30 p.m., Monday through Friday, and 9:00 a.m. to 12:00 p.m. on Saturday. Two-thousand-thirty-five

⁷ United States Postal Service Comments Regarding Appeal, January 3, 2012 (Postal Service Comments).

⁸ Public Representative Comments Opposing Remand, January 19, 2012 (PR Comments). The Public Representative Comments were accompanied by a Motion of Public Representative for Late Acceptance of Comments, January 19, 2012. That motion is granted.

⁹ MapQuest estimates the driving distance between the New Cambria and Salina post offices to be approximately 7.7 miles (14 minutes driving time).

(2,035) post office boxes are available. *Id.* The Postal Service will continue to use the New Cambria name and ZIP Code. *Id.* at 4, Concern No. 8.

IV. PARTICIPANT PLEADINGS

Petitioners. Petitioners oppose the closure of the New Cambria post office. Petitioner McCall is concerned about the security of her mail order medications, and if she were to place a lock on her mailbox, the Postal Service would not be able to securely deliver her packages due to the size of the slot. Petition at 1. Petitioner Brown asks that the post office remain open for the sake of the New Cambria community. Intervention at 2.

Postal Service. The Postal Service argues that the Commission should affirm its determination to close the New Cambria post office. Postal Service Comments at 2. The Postal Service believes the appeal raises two main issues: (1) the effect on postal services; and (2) the impact on the New Cambria community. *Id.* at 1. The Postal Service asserts that it has given these and other statutory issues serious consideration and concludes that the determination to discontinue the New Cambria post office should be affirmed. *Id.* at 2.

The Postal Service explains that its decision to close the New Cambria post office was based on:

- the postmaster vacancy;
- a minimal workload and low office revenue;
- a variety of other delivery and retail options (including the convenience of rural delivery and retail service);
- little recent growth in the area;
- minimal impact on the community; and
- expected financial savings.

Id. at 4-5. The Postal Service contends that it will continue to provide regular and effective postal services to the New Cambria community when the Final Determination is implemented. *Id.*

The Postal Service also asserts that it has followed all statutorily required procedures and has addressed the concerns raised by Petitioners regarding the effect on postal services, the effect on the New Cambria community, economic savings, and the effect on postal employees. *Id.* at 12.

Public Representative. The Public Representative contends that the Postal Service has followed applicable procedures, and that the decision to close the New Cambria post office is neither arbitrary nor capricious, but is supported by substantial evidence. PR Comments at 1. However, the Public Representative questions why the calculation of economic savings in the Administrative Record excludes the one-time, \$8,400 lease termination expense that is listed in the Postal Service's comments. *Id.* at 2. He also states that it is unclear whether the Postal Service will install CBUs, or whether New Cambria residents will be required to install curbside boxes at their own expense. *Id.*

V. COMMISSION ANALYSIS

The Commission's authority to review post office closings is provided by 39 U.S.C. § 404(d)(5). That section requires the Commission to review the Postal Service's determination to close or consolidate a post office on the basis of the record that was before the Postal Service. The Commission is empowered by section 404(d)(5) to set aside any determination, findings, and conclusions that it finds to be (a) arbitrary, capricious, an abuse of discretion, or otherwise not in accordance with the law; (b) without observance of procedure required by law; or (c) unsupported by substantial evidence in the record. Should the Commission set aside any such determination, findings, or conclusions, it may remand the entire matter to the Postal Service for further consideration. Section 404(d)(5) does not, however, authorize the

Commission to modify the Postal Service's determination by substituting its judgment for that of the Postal Service.

A. Notice to Customers

Section 404(d)(1) requires that, prior to making a determination to close any post office, the Postal Service must provide notice of its intent to close. Notice must be given 60 days before the proposed closure date to ensure that patrons have an opportunity to present their views regarding the closing. The Postal Service may not take any action to close a post office until 60 days after its determination is made available to persons served by that post office. 39 U.S.C. § 404(d)(4). A decision to close a post office may be appealed within 30 days after the determination is made available to persons served by the post office. 39 U.S.C. § 404(d)(5).

The Administrative Record indicates the Postal Service took the following steps in providing notice of its intent to close. On March 28, 2011, the Postal Service distributed questionnaires to customers regarding the possible change in service at the New Cambria post office. Final Determination at 2. A total of 58 questionnaires were distributed to delivery customers. Other questionnaires were made available at the retail counter. A total of 20 questionnaires were returned. On April 6, 2011, the Postal Service held a community meeting at Peace Lutheran Parish Hall to address customer concerns. Twenty-eight (28) customers attended. *Id.*

The Postal Service posted the proposal to close the New Cambria post office with an invitation for comments at the New Cambria and Salina post offices from July 20, 2011 through September 20, 2011. Final Determination at 2. The Final Determination was posted at the same two post offices from October 17, 2011 through November 18, 2011. Administrative Record, Item No. 49.

The Postal Service has satisfied the notice requirements of 39 U.S.C. § 404(d).

B. Other Statutory Considerations

In making a determination on whether or not to close a post office, the Postal Service must consider the following factors: the effect on the community; the effect on postal employees; whether a maximum degree of effective and regular postal service will be provided; and the economic savings to the Postal Service. 39 U.S.C. § 404(d)(2)(A).

Effect on the community. New Cambria, Kansas is an incorporated community located in Saline County, Kansas. Administrative Record, Item No. 16. The community is administered politically by the New Cambria Mayor and City Council. Police protection is provided by the Salina County Sheriff. Fire protection is provided by the New Cambria Volunteer Fire Department. The community is comprised of farmers and those who work in local businesses or commute to work in nearby communities. *Id.* Residents may travel to nearby communities for other supplies and services. See *generally* Administrative Record, Item No. 22 (returned customer questionnaires and Postal Service response letters).

As a general matter, the Postal Service solicits input from the community by distributing questionnaires to customers and holding a community meeting. The Postal Service met with members of the New Cambria community and solicited input from the community with questionnaires. In response to the Postal Service's proposal to close the New Cambria post office, customers raised concerns regarding the effect of the closure on the community. Their concerns and the Postal Service's responses are summarized in the Final Determination. Final Determination at 6.

Petitioner Brown raises the issue of the effect on the New Cambria community. Intervention at 2. The Postal Service contends that it has considered the impact of closing the New Cambria post office on the community. Postal Service Comments at 10. Upon closure of the New Cambria post office, the Postal Service will continue to use the New Cambria name and ZIP Code. Final Determination at 4, Concern No. 8.

The Postal Service has adequately considered the effect of the post office closing on the community as required by 39 U.S.C. § 404(d)(2)(A)(i).

Effect on employees. The Postal Service states that the New Cambria postmaster retired on June 1, 2009 and that an OIC has operated the New Cambria post office since then. Final Determination at 6. It asserts that after the Final Determination is implemented, the temporary OIC may be separated and that no other Postal Service employee will be adversely affected. *Id.*

The Postal Service has considered the possible effects of the post office closing on the OIC and has satisfied its obligation to consider the effect of the closing on employees at the New Cambria post office as required by 39 U.S.C. § 404(d)(2)(A)(ii).

Effective and regular service. The Postal Service contends that it has considered the effect the closing will have on postal services provided to New Cambria customers. Postal Service Comments at 5. It asserts that customers of the closed New Cambria post office may obtain retail services at the Salina post office located 7 miles away. Final Determination at 2. Delivery service will be provided by rural carrier route service through the Salina post office. The New Cambria post office box customers may obtain Post Office Box service at the Salina post office, which has 2,035 boxes available. *Id.*

For customers choosing not to travel to the Salina post office, the Postal Service explains that retail services will be available from the carrier. Postal Service Comments at 7. The Postal Service adds that it is not necessary to meet the carrier for service since most transactions do not require meeting the carrier at the mailbox. *Id.*

Petitioner McCall is concerned about the security of her mail order medications, particularly because the Postal Service's suggestion that she place a lock on her mailbox would prohibit the delivery of those packages through the mail slot. Petition at 1. The Postal Service states that customers may place a lock on their mailboxes as long as the mailbox has a slot large enough to accommodate their daily mail volume, but the Postal Service will not accept a key and will not open the customer's mailbox. Postal Service Comments at 6. If a package is too large for the mail slot, the mail carrier will leave a standard form indication that an unsuccessful delivery attempt was made and that the addressee can either retrieve the item at the Salina post office or can specify an alternative delivery location and time. *Id.* at 6-7. The Postal Service also

states that CBUs allow customers to securely receive their mail, including a larger locked compartment for parcels. *Id.* at 6. In either event, however, the concern expressed by Petitioner McCall regarding the security of her mail order medications is addressed by the Postal Service's summary of its standard practice of notifying addressees of unsuccessful attempts to deliver to box, whether a curblin box or a CBU.

The Public Representative contends that it is unclear whether the Postal Service will install CBUs, or whether New Cambria residents will be required to install mailboxes at their own expense. PR Comments at 2.

The Public Representative correctly states that the nature of the replacement services is unclear. In its comments, the Postal Service cites to those portions of the Final Determination and Administrative Record which identify service to CBUs as the service that will be provided. Postal Service Comments at 3. However, as the Public Representative points out, the Final Determination also includes a statement that "CBUs or curblin boxes or a combination of both *may be used*." PR Comments at 1 *citing* Final Determination at 5, Concern No. 16 (emphasis in original). Adding to the confusion is the fact that the Addendum to Final Determination (see note 6, *supra*) corrects the Final Determination by adding language to Section VI. Summary, which states that "[s]ervice will be provided by Curbside Rural Delivery...[and that the]...Local Manager of Post Office Operations will make determination of future placement." Administrative Record, Item No. 47A. The latter is apparently intended to modify the statement in the Final Determination (at 2) that "[s]ervice will be provided to cluster box units (CBUs)." ¹⁰ While, as noted by the Public Representative, there may be some ambiguity about the type of service to be provided to the community, from the outset the Postal Service clearly identified the type of service (or combination thereof) that may be provided based on input from the community. The Final Determination (Item 47a) definitively states that "[s]ervice will be provided by Curbside Rural Delivery," one of the

¹⁰ In contrast, in its proposal to close the New Cambria post office, the Postal Service indicated that "[s]ervice may be provided to [CBUs]". Item No. 41 at 2.

delivery options considered from the outset. That mode of delivery satisfies section 404(d)(2)(A)(iii), as would, on this Administrative Record, delivery to CBUs.

The Postal Service has considered the issues raised by customers concerning effective and regular service as required by 39 U.S.C. § 404(d)(2)(A)(iii).

Economic savings. The Postal Service estimates total annual savings of \$19,496. Final Determination at 7. It derives this figure by summing the following costs: postmaster salary and benefits (\$20,492) and annual lease costs (\$2,100), minus the cost of replacement service (\$3,096). *Id.*

The Public Representative questions the Postal Service's calculation of economic savings. PR Comments at 1. He notes that a one-time, \$8,400 lease termination expense, listed in the Postal Service's comments, is not listed in the Final Determination, nor anywhere else in the Administrative Record. *Id.* at 2. He states that the figure apparently represents 4 years of rent on a lease that expires October 31, 2015. However, due to the moratorium on post office closings, the post office will not close before May 16, 2012, so the amount owed will be lower than \$8,400. He also states that it is unclear whether the Postal Service will install CBUs at a cost of \$2,500, or whether New Cambria residents will be required to install mailboxes at their own expense. *Id.*

In its comments, the Postal Service correctly recognizes its continuing liability under the lease until October 31, 2015. Thus, the net estimated savings projected in the Final Determination (at 7) will not be realized until after that date. Further, because delivery to CBUs was an option considered, the Postal Service appropriately recognized the estimated one-time installation costs in its calculation of economic savings.

The New Cambria post office postmaster retired on June 1, 2009. Final Determination at 6. The post office has since been staffed by a non-career OIC who, upon discontinuance of the post office, may be separated from the Postal Service. The postmaster position and the corresponding salary will be eliminated. See, e.g., Docket No. A2011-67, United States Postal Service Comments Regarding Appeal, October 24, 2011, at 13; Docket No. A2011-68, United States Postal Service Comments Regarding

Appeal, November 2, 2011, at 10. Furthermore, notwithstanding that the New Cambria post office has been staffed by an OIC for approximately two and a half years, even assuming the use of the presumably lower OIC salary, the Postal Service would have satisfied the requirements of section 404(d)(2)(A)(iv).

The Postal Service has satisfied the requirement that it consider economic savings as required by 39 U.S.C. § 404(d)(2)(A)(iv).

VI. CONCLUSION

The Postal Service has adequately considered the requirements of 39 U.S.C. § 404(d). Accordingly, the Postal Service's determination to close the New Cambria post office is affirmed.¹¹

It is ordered:

The Postal Service's determination to close the New Cambria, Kansas post office is affirmed.

By the Commission.

Shoshana M. Grove
Secretary

¹¹ See footnote 4, *supra*.

DISSENTING OPINION OF CHAIRMAN GOLDWAY

The Administrative Record is inaccurate with regard to economic savings. As such, the Postal Service has not adequately considered economic savings as required by 39 U.S.C. § 404(d)(2)(A)(iv).

The Postal Service argues that savings should be calculated based on a full-time postmaster's salary. Yet the New Cambria post office has been operated by a non-career officer-in-charge (OIC) since the former postmaster retired on June 1, 2009. On the one hand, the Postal Service argues that the effect on employees of this closing will be minimal because only an OIC will be eliminated; yet on the other hand, it argues that the savings should be calculated using a full-time postmaster position.

The Postal Service already claims billions of dollars in savings from reducing labor costs. I believe the savings from substituting OICs in postmaster positions throughout the nation have already been included in those billions. There are inherent and blatant contradictions in the Administrative Record that must be corrected on remand.

In addition, I agree with the Public Representative's concerns that the economic analysis identified in the Final Determination excludes a one-time, \$8,400 lease termination expense that was listed in the Postal Service Comments.

It is not the statutory responsibility of the Commission to correct the Administrative Record for the Postal Service and certainly not to make its own surmise about what and/or whether there would be savings if accurate data were in the Administrative Record. Therefore, the decision to close should be remanded to the Postal Service to correct the Administrative Record and present a more considered evaluation of potential savings.

The Public Representative also contends the nature of the replacement postal

services to be provided is inconclusive and left unclear by the Postal Service. While the Postal Service filed comments identifying cluster box units (CBUs) as a replacement service, the Administrative Record contains conflicting information and qualified statements with regard to the replacement service for the community. The community is left without conclusive assurance of replacement service. As my colleagues and I have indicated previously, before the Postal Service withdraws nearby access to retail service, it should confirm its intent to implement replacement or substitute services. *Cf.* Docket No. A2011-40, Order No. 1232, at 9 (“...the Postal Service never conclusively states that it will be installing CBUs or parcel lockers.”)

The Postal Service recently announced a moratorium on post office closings. It is confusing and perhaps unfair to require some citizens whose post offices have received a discontinuance notice as of December 12, 2011 to gather evidence and pursue an appeal to the Commission, while others whose post offices were in the review process, but had not yet received a discontinuance notice by December 12, 2011, have the respite of a 5-month moratorium and the opportunity to have further consideration of alternatives by the Postal Service.

The citizens of New Cambria, Kansas and their concerns regarding the loss of a neighborhood post office should be afforded the same opportunity to be heard and considered as the citizens of the approximately 3,700 post offices fully covered by the moratorium.

Ruth Y. Goldway

DISSENTING OPINION OF VICE CHAIRMAN LANGLEY

The Postal Service did not adequately consider the economic savings as required by 39 U.S.C. § 404(d)(2)(A)(iv). The current lease does not terminate until October 31, 2015, and does not have a 30-day termination clause. Administrative Record, Item No. 15 at 1. The Postal Service should note that any savings from the lease will not be realized for more than 3 years.

In addition, the Postal Service should take into consideration that a non-career postmaster relief (PMR) has been in charge of this facility since June 2009, not an EAS-53 postmaster, and reflect the PMR's salary and benefits in its cost savings analysis. As a government entity, the Postal Service should ensure that its cost/benefit analysis accurately identifies capturable cost savings and does not overstate savings.

In the Final Determination, Section I., it says that "[s]ervice will be provided to cluster box units,"¹ and then due to an Addendum to the Final Determination corrects Section VI., the summary of the Final Determination by stating that "[s]ervice will be provided by Curbside Rural Delivery. Local Manager of Post Office Operation will make determination of future placement."² The Postal Service also states that "[u]pon implementation of the Final Determination, delivery and retail services will be provided by rural route service administered by the Salina Post Office...[and] also be provided by cluster box units (CBUs) located in New Cambria."³

I agree with my colleagues that the Administrative Record is unclear regarding the nature of the replacement service. It is important for the Postal Service to provide clarity in its determinations to discontinue a postal retail facility.

¹ Administrative Record, Item No. 47 at 2.

² Administrative Record, Item No. 47A

³ See Postal Service Comments at 3.

I find that the Administrative Record evidence does not support the Postal Service's decision to discontinue operations at the New Cambria post office and should be remanded.

Nanci E. Langley